

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

SEAN K. WHITTLE,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

4:18-CV-04095-LLP

ORDER

Plaintiff Sean K. Whittle, represented by attorney Steven R. Pfeiffer, filed a complaint under 42 U.S.C. §1383(c)(3) and an application to proceed without prepayment of fees or costs (Docs. 1 and 3). The court must initially decide on the basis of the complaint whether to grant leave to proceed in forma pauperis under 28 U.S.C. § 1915, before issuance and service of process. Gentile v. Missouri Dept. of Correction and Human Serv., 986 F.2d 214, 217 (8th Cir. 1993).

Having reviewed plaintiff's financial declaration, the court finds that plaintiff satisfies the requirements of Section 1915(a). The court must next determine whether the claims in the complaint are frivolous or malicious under Section 1915(d), and if so, the court must dismiss the complaint. Id. If the claims are not frivolous or malicious, the court should grant in forma pauperis status and order issuance and service of process. Id.

Plaintiff requests review of the determination by the Commissioner of Social Security denying plaintiff's application for Social Security child disability benefits and supplemental security income disability benefits for lack of disability. Plaintiff's claims are not frivolous or malicious. Accordingly, it is hereby

ORDERED that Plaintiff's Motion to Proceed Without Prepayment of Fees or Costs (Doc. 3) is GRANTED.

DATED this 7th day of August, 2018.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge